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APPLICATION NO	FLING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09-656,769	09/07/2000	James V. Albanese	ULB-002	1562

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[REDACTED] EXAMINER

BOYD, JENNIFER A

ART UNIT	PAPER NUMBER
1771	4

DATE MAILED: 04/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/656,769	ALBANESE ET AL.
Examiner	Art Unit	
Jennifer A Boyd	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133)
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b)

Status

1) Responsive to communication(s) filed on 07 September 2000.

2a) This action is **FINAL** 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-44 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-5, 7-13, 15, 16 and 19-44 is/are rejected.

7) Claim(s) 6, 14, 17 and 18 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of
1 Certified copies of the priority documents have been received
2 Certified copies of the priority documents have been received in Application No. _____.
3 Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s) _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) Other

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 – 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. It is unclear whether the slot is claimed in claim 1 due to the phrasing "when received" in line 1 of the claim and in claim 22 due to the phrasing "when installed" in line 5 of the claim. For the sake of searching prior art, the examiner will interpret that the slot is claimed and a part of the weatherstripping system. Please clarify if the slot is a part of the weatherstripping system by including the slot in the preamble.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 22 – 25, 27 – 28, 30 – 33 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoag (US 2,989,766).

As to claim 22, Hoag is directed to a bristle anchoring structure and article (Title). Hoag

teaches that bristles, fiber or like 6, equated to Applicant's "plurality of transversely oriented strands", are folded about a wire or rod 4, equated to Applicant's "longitudinal axis", which is extended longitudinally between the sides of a the channel member and the bristles are clamped between the sides of the channel with the ends of the bristles projecting from the channel (Figure 3 and column 1, lines 40 – 50). Hoag refers to this structure as a bristle carrying channel. As seen in Figure 5, the bristle carrying channel 1 is installed in a supporting member 12, equated to Applicant's "slot".

As to claims 23 and 30, Hoag teaches that the bristles 6 are folded about a wire or rod 4 (column 1, lines 40 – 50). A wire or rod is known to be a round, elongated strand, therefore, it could be considered to be the Applicant's monofilament thread or bead. The folding of the bristles about a wire or rod is an adhering relationship.

As to claims 24 and 31, Hoag teaches that the side walls of the bristle carrying channel, equated to the Applicant's "locking fin", are folded around the bristles (column 2, lines 46 – 53). The walls are bent or crimped into a gripping engagement with the bristles (column 2, lines 69 – 72). Since the wall material can be bent or crimped, it is considered to be a flexible material.

As to claim 25, the patent limitations are disclosed above.

As to claim 27, Hoag teaches that the bristles project outwardly from the channel (column 2, lines 54 – 55). When the side walls of the bristle carrying channel are bent or crimped together, the bristles flare in opposite directions (Figure 3 and column 3, lines 5 – 15). When the bristles are stepped on, the flexing would continue in opposite directions creating the Applicant's "seal".

As to claim 28, Hoag teaches that the supporting member, or "slot", extends along an acute angle. In Figure 5, the undercut indicated by 18 is at an acute angle.

As to claim 32, Hoag teaches that the side walls, or "locking fin" is flexible but more rigid than the bristles, or filaments that constitute the "pile". By examining Figure 3, one can see that the backing strip must be rigid enough to hold the weatherstrip into the slot and assist in keeping the bristles erect. According to Figure 3, the pile has a significantly smaller width than the backing strip, therefore, it would naturally be more flexible and less rigid than the backing strip.

As to claim 33, the patent limitations are discussed above.

As to claim 42, Hoag does not specify the diameter of the wire or rod, but as seen in Figure 3, the wire or rod does split the bristles into two portions.

6. Claims 22, 23, 27, 28 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Zuiddam et al (US 4,866,808).

Zuiddam et al. is directed to a rollable floor mat. It should be noted that the Examiner has given no patentable weight to "a pile weatherstrip". Furthermore, it has been held that a recitation with respect to the manner in which a claimed article is intended to be employed does not differentiate the claimed article from a prior art article satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

As to claim 22, Zuiddam discloses a floor mat with a plurality of substantially U-shaped extruded plastic profiles (Abstract), equated to Applicant's "slot". The bristle-like filaments 20 are fixedly positioned in the longitudinal channels 14 of the U-shaped profiles 12 by wrapping

the center portion of the filaments about a wire member 26, creating the Applicant's "flat pile", and inserting the wire member 26 in the U-shaped channel 14 with the distal ends of the bristles extending above the top of the profiles 12 (column 3, lines 58 – 66).

As to claims 23 and 30, Zuiddam teaches that the bristle-like filaments 20 are connected by wrapping the center portion of the filaments about a wire member (column 3, lines 58 – 65). A wire is a pliable metallic strand or rod, therefore, it could be considered to be the Applicant's monofilament thread or bead. The wrapping of the filaments about a wire member creates an "adhering" relationship between the member and filaments.

As to claim 27, Zuiddam teaches that the bristle-like filaments, or "pile", extends beyond the U-shaped extruded plastic profile, or "slot" as seen in Figure 1. The bristle-like filaments are flexible in two directions about the center portion to provide a scraping action in two directions to the soles of shoes of people walking on the mat (Abstract). The flexing of the bristle-like filaments when stepped on would create the Applicant's "seal".

As to claim 28, Zuiddam shows in Figure 1 that the U-shaped extruded plastic profiles have an acutely angled slot profile.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 - 2, 5 – 13, and 19 – 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larry E. Johnson (US 5,817,390) alone or in view of L.W. Johnson (US 3,404,487).

Larry E. Johnson is directed to a pile weatherstrip with a plurality of strands divided into separate parts tensioned to spring outwardly (Figure 1).

As to claims 1 – 2, Larry E. Johnson fails to teach the holding slot as claimed in the instant invention as required by claim 1. Johnson fails to teach the exterior portions extending from the member to create a seal when engaged by a moving member.

L.W. Johnson discloses a holding slot which would secure the weatherstripping during use (Figure 4). L.W. Johnson discloses a weatherstrip with seal-forming portions extending from a member when engaged (Figure 4) which would assure a tight seal.

It would have been obvious to one of ordinary skill in the art to create a weatherstripping of Larry E. Johnson and affix the weatherstripping into a slot of L.W. Johnson in order to securely hold the weatherstripping in place during use.

It would have been obvious to one of ordinary skill in the art to create the weatherstripping of Larry E. Johnson with exterior portions that extend outside of the holding slot to create a seal with a member as suggested by L.W. Johnson in order to assure that the weatherstripping system effectively protects against entering elements.

As to claim 5, Larry E. Johnson discloses a flexible rib which is disposed along the axis (Figure 1).

As to claim 7, Larry E. Johnson discloses an outer fin in combination with a backing strip which provides a locking mechanism when placed in said slot (Figure 1).

As to claim 8, Larry E. Johnson discloses a locking fin that is of a material that is flexible but more rigid than said pile. By examining Figure 1, one can see that in order to insert the backing strip into a slot the material must be flexible, however, it must be rigid enough to hold the weatherstrip into the slot. According to Figure 1, the pile has a significantly smaller width than the backing strip, therefore, it would naturally be more flexible and less rigid than the backing strip.

As to claim 9, Larry E. Johnson discloses an internal fin which is substantially the same height as the pile (column 3, lines 61 – 62), however, may be of greater or lesser height than the pile (column 4, lines 11 – 13).

As to claim 10, Larry E. Johnson discloses a pile weatherstripping comprising external fins (Figure 1, reference numbers 28 and 30) disposed along the outside of a flat pile (Figure 1, reference numbers 12 and 14) and a backing strip (Figure 1, reference number 32) which in combination provides a locking mechanism when placed in a slot. The flat pile bends about an axis (as seen in Figure 2).

As to claim 11, Larry E. Johnson discloses an internal fin which is substantially the same height as the pile (column 3, lines 61 – 62).

As to claim 12, Larry E. Johnson discloses a weatherstrip in which all the elements described are formed from polyolefin polymer (column 4, lines 6 – 10).

As to claim 13, Larry E. Johnson discloses a weatherstrip in which the preferred material is a polyolefin polymer which is held together by a continuous ultrasonic weld (column 4, lines 5 – 9).

As to claims 19 - 20, Larry E. Johnson discloses a weatherstrip with a flexible yet rigid internal fin assembled centrally of said pile (Figure 1). By examining Figure 1, the strands have a smaller width therefore are more flexible than the fin.

As to claim 21, Larry E. Johnson discloses a middle fin from which curved strands extend (Figure 1).

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Larry E. Johnson (US 5,817,390) in view of L.W. Johnson (US 3,404,487) in further view of Belopavlic (DE 2,060,242).

Larry E. Johnson and L.W. Johnson disclose a pile weatherstrip as described in claim 1, however, are silent regarding the use of the weatherstrip to provide a seal in a corner.

Belopavlic discloses a seal used between a fixed element and a moving element. In the closed state, the corner of the moving component is pressed into the projecting corner of the seal to ensure a tight seal.

It would have been obvious to one of ordinary skill in the art to use the weatherstrip as specified by Larry E. Johnson and L.W. Johnson in a corner as described by Belopavlic. It would have been obvious to one of ordinary skill in the art to create a pile weatherstrip to be used in a corner because corners, just as bottom edges of doors and windows, have a gap which would necessitate sealing in order to minimize drafts.

10. Claims 15 – 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larry E. Johnson (US 5,817,390) in view of L.W. Johnson (US 3,404,487) and in further view of Rilasciato (IT 293,049).

Larry E. Johnson and L.W. Johnson disclose a pile weatherstrip as described in claim 1, however, are silent regarding a slot with teeth defining edges which engage the locking fin when inserted to secure the weatherstrip.

Rilasciato discloses a slot which is a kerf with teeth defining edges (Figure 4) which would securely hold the weatherstrip due to the friction provided by the teeth.

It would have been obvious to one of ordinary skill in the art to use the weatherstrip as specified by Larry E. Johnson and L.W. Johnson in a kerf as described by Rilasciato. It would have been obvious to one of ordinary skill in the art to create a pile weatherstrip to be inserted into a kerf with teeth defining edges as described by Rilasciato in order to ensure a tighter fit providing increased resistance against forces experienced by everyday use.

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Larry E. Johnson (US 5,817,390) in view of L.W. Johnson (US 3,404,487) and in further view of Dieterich (US 3,690,038).

Larry E. Johnson and L.W. Johnson disclose a pile weatherstrip as described in claim 1, however, are silent regarding the inward acute angle of the slot and throat.

Dieterich discloses a slot with acutely-angled throat (Figures 3-4) which aid in the sealing action of the system.

It would have been obvious to one of ordinary skill in the art to use the weatherstrip as specified by Larry E. Johnson and L.W. Johnson in an angled slot as described by Dieterich. It would have been obvious to one of ordinary skill in the art to create a pile weatherstrip to be inserted into an angled slot by Dieterich in order to ensure tighter sealing of the pile with the member.

12. Claims 26, 34 – 39 and 43 – 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoag (US 2,989,766) in view of Larry E. Johnson (US 5,817,390).

Hoag teaches the claimed invention except fails to disclose that the bristles, wire or rod and side walls of the bristle carrying channel are ultrasonically welded together as required by claim 26. Hoag fails to teach a web of flexible material disposed along the inside of the pile which is of sufficient width to extend outwardly of the slot with the pile forming an internal fin as required by claim 34. Hoag fails to teach that the internal fin is less rigid than the locking fin as required by claim 35. Hoag fails to teach that the internal fin has edges which extend at least to the upper ends of the strands constituting the pile as required by claim 36. Hoag fails to teach that the fins and strands are of like material as required by claim 37 and specifically that they are ultrasonically weldable as required by claim 38. Hoag fails to teach that the internal fin along with the bead or thread, locking fin and strands are welded together as required by claim 39. Hoag fails to teach that the internal fin is of flexible material more rigid than the strands and shorter than the strands but long enough to extend out of the slot when the flat pile is disposed in the slot and the internal fin being assembled with the strands centrally on the inside to define the contour of parts of the pile which extend transversely from the center thereof as required by

claim 34. Hoag fails to teach that the internal fin has a middle section from which arcuate side sections extend as required by claim 44.

Larry E. Johnson is directed to a pile weatherstripping having internal and external fins (Title). Johnson teaches that the assembly is held together preferably by a continuous ultrasonic weld along the channel 34 connecting the bristles, internal fin and external fin as seen in Figure 1 (column 4, lines 1 – 10) as required by claim 26. As seen in Figure 1, Johnson discloses a flexible internal fin 18 which is disposed on the strands 12 and 14 as required by claims 34 and 35. Johnson discloses that the internal fin is substantially the same height as the pile (column 3, lines 61 – 62), however, may be of greater or lesser height than the pile (column 4, lines 11 – 13) as required by claim 36. Johnson discloses that all the elements of the weatherstrip are preferably formed from a polyolefin polymer and which is ultrasonically welded together (column 4, lines 6 – 10) as required by claims 37 – 39. Johnson discloses that the weatherstrip has a flexible yet rigid internal fin assembled centrally of pile and contours the pile (Figure 1) and the internal fin can be of greater or lesser height than the pile as required by claim 43. Johnson teaches an internal fin from which curved strands extend (Figure 1) as required by claim 44.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to ultrasonically weld elements of the bristle carrying channel together of Hoag as suggested by Larry E. Johnson motivated by the desire to firmly attach the elements of the mat together to ensure long-term durability.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add an internal fin as suggested by Johnson in the bristle carrying channel of Hoag motivated by the desire to add strength and stability to the structure.

13. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoag (US 2,989,766) in view of Belopavlic (DE 2,060,242).

Hoag teaches the claimed invention except fails to disclose the supporting member, or "slot" could be used to provide a seal in a corner.

Belopavlic discloses a seal used between a fixed element and a moving element. In the closed state, the corner of the moving component is pressed into the projecting corner of the seal to ensure a tight seal.

14. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the supporting member as described by Hoag in a corner as suggested by Belopavlic motivated by the fact that corners, such as at entranceways of buildings, have a gap which would necessitate protruding bristles to remove dirt and debris from a person's shoes.

15. Claims 40 – 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoag (US 2,989,766) in view of Rilasciato (IT 293,049).

Hoag teaches a "locking fin" comprising the side walls of the bristle carrying channel folded around the bristles (column 2, lines 46 – 53).

Hoag fails to disclose that the "locking fin" can be engaged by the teeth defining edges upon installation into the slot.

Rilasciato discloses a slot which is a kerf with teeth defining edges (Figure 4) which would securely hold a weatherstrip due to the friction provided by the teeth.

It would have been obvious to one of ordinary skill in the art to create a supporting member as specified by Hoag with a kerf as described by Rilasciato motivated by the desire to ensure a tighter fit providing increased resistance against forces experienced by everyday use.

16. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zuiddam et al (US 4,866,808) in view of Belopavlic (DE 2,060,242).

Zuiddam teaches the claimed invention except fails to disclose that the U-shaped plastic profile, or "slot" could be used to provide a seal in a corner.

Belopavlic discloses a seal used between a fixed element and a moving element. In the closed state, the corner of the moving component is pressed into the projecting corner of the seal to ensure a tight seal.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the U-shaped plastic profile as described by Zuiddam in a corner as suggested by Belopavlic motivated by the fact that corners, such as at entranceways of buildings, have a gap which would necessitate protruding bristles to remove dirt and debris from a person's shoes.

17. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zuiddam et al (US 4,866,808) in view of Rilasciato (IT 293,049).

Zuiddam teaches the claimed invention except fails to disclose a U-shaped plastic profile, or "slot", with teeth defining edges which engage the pile upon installation into the slot.

Rilasciato discloses a slot which is a kerf with teeth defining edges (Figure 4) which would securely hold a weatherstrip due to the friction provided by the teeth.

It would have been obvious to one of ordinary skill in the art to use the U-shaped plastic profile as specified by Zuiddam in a kerf as described by Rilasciato motivated by the desire to ensure a tighter fit providing increased resistance against forces experienced by everyday use.

18. Claims 24 - 26 and 31 - 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zuiddam et al. (US 4,866,808) in view of Larry E. Johnson (US 5,817,390).

As to claims 24, 31 and 32, Zuiddam discloses the claimed invention except fails to disclose a locking fin disposed over and extending longitudinally along the transversely oriented strands and being attached thereto.

Larry E. Johnson is directed a pile weatherstripping having internal and external fins (Title). Johnson discloses an external fins 28 and 30 in combination with a backing strip 32 which provides a locking mechanism when placed in said slot (Figure 1). Johnson teaches that the locking mechanism along with all the elements in the weatherstripping are made of polypropylene, which can be a flexible material. Johnson discloses a locking fin that is of a material that is flexible but more rigid than said pile. By examining Figure 1, one can see that in order to insert the backing strip into a slot the material must be flexible, however, it must be rigid enough to hold the weatherstrip into the slot. According to Figure 1, the pile has a significantly smaller width than the backing strip, therefore, it would naturally be more flexible and less rigid than the backing strip.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the locking mechanism of Larry E. Johnson enclosing the bristle-like filaments of Zuiddam when inserting the filaments into the U-shaped extruded profile, or "slot"

motivated by the desire to removably yet securely hold the filaments in the U-shaped profile, or "slot".

As to claim 25, the limitations of the patent are discussed above.

As to claim 26, Zuiddam et al. teaches that the U-shaped plastic profiles may be made of polyvinyl chloride and the wire member is not limited to being constructed of metal and may be made of any suitable material such as plastic.

Zuiddam fails to teach that the strands, bead or thread and locking fin are ultrasonically welded together.

Johnson teaches that all the elements in the weatherstripping are made of polypropylene, which is ultrasonically weldable. The assembly is held together preferably by a continuous ultrasonic weld along the channel 34 at attachment portions 17, 18 and 26 as seen in Figure 1 (column 4, lines 1 – 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to ultrasonically weld the strands and bead or thread of Zuiddam together with the locking fin as suggested by Larry E. Johnson motivated by the desire to firmly attach the plastic portions of the mat together to ensure durability.

Allowable Subject Matter

19. Claims 6, 14, and 17 - 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

20. Claims 6, 14, and 17 - 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 703-305-7082. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Jennifer Boyd
Jennifer Boyd
April 15, 2003

Terrel Morris
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